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CHARLES ELMORE CROPLEY
CLERK

IN THE

Supreme Court of the United States

October Term, 1949

No. ~~107~~

STANDARD OIL COMPANY,
Petitioner,

vs.

FEDERAL TRADE COMMISSION,
Respondent.

APPLICATION FOR LEAVE TO PRESENT ORAL ARGUMENT ON BEHALF OF *AMICI CURIAE.*

To the Honorable, the Chief Justice and Associate Justices of the Supreme Court of the United States:

Retail Gasoline Dealers Association of Michigan, Inc., Michigan Petroleum Association, Inc., and National Congress of Petroleum Retailers, Inc., *amici curiae,* by Cyrus Austin, their attorney, hereby respectfully make application to this Court and request that leave be granted their said attorney to present oral argument before this Court in the above-entitled proceeding, in support of the decree of the United States Court of Appeals for the Seventh Circuit here for review.

The undersigned is a member of the Bar of this Court, and has filed a brief herein on behalf of the aforesaid *amici curiae,* in support of the said decree, upon the written consents of the parties to said proceeding.

Retail Gasoline Dealers Association of Michigan, Inc., is a membership corporation serving the interests of the retail gasoline dealers of that State. The Association has upwards of 2,000 members, more than 1,450 of whom are in the Detroit metropolitan area; and its membership is fairly representative of the retail gasoline dealers of that area and of the State.

Michigan Petroleum Association, Inc., is a membership corporation representing the independent petroleum jobbers of Michigan, many of its members being engaged in the business of marketing gasoline in the Detroit area.

National Congress of Petroleum Retailers, Inc., also a non-profit membership corporation, is a trade congress of affiliated retail gasoline dealer associations located in twenty-three states and the District of Columbia. It was formed for the purpose of fostering and promoting the interests and welfare of the 275,000 gasoline retailers in the United States, and is the only trade association of retail dealers in petroleum products having a nation-wide representation.

The charge in this case is, and the undisputed findings are, that the petitioner, Standard Oil Company, has discriminated in price in the sale of its branded gasoline in the Detroit metropolitan area by selling such gasoline to four retailers at prices substantially lower than the price which petitioner charges for the same gasoline to the more than 350 other retail dealers whom it supplies in Detroit. The order of the Federal Trade Commission, and the decree of the Court of Appeals here for review, prohibit those discriminations in price. Said order and decree have for their direct purpose and primary effect the protection of the retail gasoline dealers of Detroit and other areas served by petitioner, including the customers of the jobber-whole-

salers whom petitioner supplies, from the injurious effects of said discriminations.

The retail gasoline dealers and jobbers of Michigan and the retail gasoline dealers of the nation, therefore, have a direct and vital interest in the outcome of this proceeding. They are the persons most directly affected by the discriminations which the Commission has sought to prevent herein and which the decree of the court below prohibits. They are, in fact, the real parties in interest in the affirmance of said decree.

The undersigned has participated in this case as an attorney from its very inception and is necessarily more familiar with its history and background than any attorney now representing the Federal Trade Commission. As attorney for the Commission the undersigned prepared the complaint herein and conducted the trial of the case for the Commission as the record will show. Before leaving the Commission's employ in January, 1944, he briefed and argued the case before the Commission. In April, 1946, as attorney for the Michigan retailers' association, he presented oral argument before the Commission on motions for rehearing and for modification. In February, 1949, he filed a brief on behalf of the Michigan association and presented oral argument in the Court of Appeals for the Seventh Circuit, by permission of the court, on review of the Commission's order.

Thus the undersigned has participated in every oral argument made in this case since the complaint was issued, and it hoped that this Court will see fit to permit him to be heard upon this final presentation. He believes that he can be of aid to the Court in presenting and clarifying the issues, and submits that it is important to the interest of the above *amici curiae* that he be heard.

This application is made at this time because the undersigned was under the impression that such an application would be inappropriate, and would not be considered, prior to the filing of the brief of the *amici curiae* and the consents of the parties. Petitioner's brief was not served until December 19th, and the undersigned was admitted to the Bar of this Court on the same date. With Christmas intervening the preparation of an adequate brief for the *amici curiae* within the time limited has been difficult. The undersigned also understood that the Court would be in session during the week of January 3rd.

WHEREFORE, Retail Gasoline Dealers Association of Michigan, Inc., Michigan Petroleum Association, Inc., and National Congress of Petroleum Retailers, Inc., pray that their undersigned attorney be granted leave to present oral argument in their behalf when this case is heard by this Court. One-half hour for argument is requested.

Respectfully submitted,

CYRUS AUSTIN,
Attorney for Retail Gasoline Dealers Association of Michigan, Inc., Michigan Petroleum Association, Inc., National Congress of Petroleum Retailers, Inc.,
42 West 44th Street,
New York 18, N. Y.

December 31, 1949.

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Office-Supreme Court, U. S.
FILED
SEP 11 1950
CHARLES ELMORE CROPLEY
CLERK

IN THE

Supreme Court of the United States

October Term, 1950

No. 1

STANDARD OIL COMPANY,
Petitioner,

vs.

FEDERAL TRADE COMMISSION,
Respondent.

APPLICATION FOR LEAVE TO PRESENT ORAL ARGUMENT IN BEHALF OF *AMICI CURIAE.*

(Upon Reargument)

To the Honorable, the Chief Justice and Associate Justices of the Supreme Court of the United States:

The undersigned, as attorney for Retail Gasoline Dealers Association of Michigan, Inc., Michigan Petroleum Association, Inc., and National Congress of Petroleum Retailers, Inc., *amici curiae*, respectfully makes application to the Court and requests that he be granted permission to present oral argument before the Court, upon reargument of the above-entitled cause, in behalf of the said three associations.

Your applicant is a member of the Bar of this Court, and has filed a brief herein on behalf of the above-named associations, as *amici curiae*, in support of the decree of

the United States Court of Appeals for the Seventh Circuit here for review. Said brief was filed upon the written consents of the parties to this proceeding.

The Court has placed this cause on the Calendar for reargument at the October, 1950, Term. Prior to the original argument your applicant applied to the Court for leave to participate in the oral argument, on behalf of the aforesaid *amici curiae*. Said application was granted, and your applicant did appear and present argument before the Court, on January 10th last. The Court will be able to judge whether the further presentation of oral argument by your applicant will be of aid to the Court in the decision of this cause. Further elaboration of this application, therefore, is unnecessary.

However, it is submitted that this application should be granted for the same reasons stated in the prior application. The interest of the gasoline retailers and jobbers of Michigan, and of the nation, represented by your applicant, is such that they should be heard if the principal issues in this case are to be fully reargued. The prior application is reprinted as an appendix hereto, for convenient reference.

Respectfully submitted,

CYRUS AUSTIN,
Attorney for Retail Gasoline Dealers Association of Michigan, Inc., Michigan Petroleum Association, Inc., and National Congress of Petroleum Retailers, Inc.,
500 Fifth Avenue,
New York 18, N. Y.

September 5, 1950.

APPENDIX

APPLICATION FOR LEAVE TO PRESENT ORAL ARGUMENT ON BEHALF OF *AMICI CURIAE*.

(Granted January 9, 1950.)

To the Honorable, the Chief Justice and Associate Justices of the Supreme Court of the United States:

Retail Gasoline Dealers Association of Michigan, Inc., Michigan Petroleum Association, Inc., and National Congress of Petroleum Retailers, Inc., *amici curiae*, by Cyrus Austin, their attorney, hereby respectfully make application to this Court and request that leave be granted their said attorney to present oral argument before this Court in the above-entitled proceeding, in support of the decree of the United States Court of Appeals for the Seventh Circuit here for review.

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The undersigned has participated in this case as an attorney from its very inception and is necessarily more familiar with its history and background than any attorney now representing the Federal Trade Commission. As at-

torney for the Commission the undersigned prepared the complaint herein and conducted the trial of the case for the Commission as the record will show. Before leaving the Commission's employ in January, 1944, he briefed and argued the case before the Commission. In April, 1946, as attorney for the Michigan retailers' association, he presented oral argument before the Commission on motions for rehearing and for modification. In February, 1949, he filed a brief on behalf of the Michigan association and presented oral argument in the Court of Appeals for the Seventh Circuit, by permission of the court, on review of the Commission's order.

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* * * * * * * * * *

WHEREFORE, Retail Gasoline Dealers Association of Michigan, Inc., Michigan Petroleum Association, Inc., and National Congress of Petroleum Retailers, Inc., pray that their undersigned attorney be granted leave to present oral argument in their behalf when this case is heard by this Court. One-half hour for argument is requested.

Respectfully submitted,

CYRUS AUSTIN,

Attorney for Retail Gasoline Dealers Association of Michigan, Inc., Michigan Petroleum Association, Inc., and National Congress of Petroleum Retailers, Inc.

December 31, 1949.